

**Summary of IDEM Workgroup Meeting
ANTIDEGRADATION/OSRW**

Thursday, December 19, 2002

IGCN, 13th floor, Conference Room OLC 1, Indianapolis
10:00am – 2:00p.m. E.S.T.

Introduction:

On Thursday, December 19, 2002, IDEM staff met for the third time with a wide cross-section of stakeholders which make up the Antidegradation/OSRW workgroup. These notes are intended to be a summary of the major points from the meeting held at IDEM's IGCN offices.

The meeting was called to order by Larry Wu. Those in attendance for all or part of the meeting included: Art Umble, Bill Beranek, Bowden Quinn, Chad Frahm, Dan Olson, Kent Halloran, Neil Parke and Ralph Roper.

In addition, the following IDEM staff members were present for all or part of the meeting: Bill Harkins, David Kallander, Dennis Clark and Megan Wallace.

Summary:

It was suggested that section 4.C.4. of the November 22, 2002 minutes be clarified as referring to changes to be made to the IDEM Issues Outline. After this change, and the attachment of the Issues Outline to the minutes, it will be posted to the IDEM website. IDEM noted that it was continuing to work to improve the access to, and content of, the Triennial Review materials on its website. Suggestions for improvements were welcomed.

The workgroup discussed the following:

1. WQAG/Tier 2 Issues (Task 8).
 - A. Neil Parke distributed a document that he prepared with Art Umble and Bill Beranek. Titled, "DRAFT – For IDEM Antidegradation Work Group Discussion Purposes ONLY", it represented a first attempt to frame the policy issues in an "up or down" fashion to simplify the matrix (which will eventually match policy questions with activities in Indiana, Illinois, Ohio, Michigan, Kentucky and Wisconsin).
 - 1) Discussion focused on the following policy questions:
 - a) "Does the State make a 'high quality' water determination on a 'per-pollutant-basis'?" This was described as: looking at the water itself; looking at per pollutant; or, is there another way?
 - b) "Does the State allow a 'de minimus' threshold of discharge that is 'not a significant lowering of water quality'?" It was asked what would be the trigger (e.g., the presence of lead, a certain percentage of lead)?

- c) “If the State allows a ‘de minimus’ threshold of discharge, does threshold get smaller when water has a designation that is above ‘high quality’ (i.e., OSRW, etc.)?” This will be tricky as “high quality” is used in two different ways.
 - d) “Does the State regulate BCCs separately?” This will raise the BCC versus non-BCC issue.
 - e) “Does the State regulate ‘non-conservative’ pollutants differently?” This would include pollutants that biodegrade, volatilize or otherwise do not persist in the water.
- 2) It was suggested that the document should be distributed to all members of the workgroup to receive comments before progressing further. The agency will keep a tally of where members of the workgroup stand on each policy issue to aid workgroup discussions. It was emphasized that the document would be continually revised.
- 3) It was suggested that Minnesota be added to the list.
- 4) To keep the focus on the informational nature of the document, at the request of the workgroup, the agency proposes as the document title, “DRAFT – Region 5 comparison (plus Kentucky)”.
- B. Bill Beranek distributed a document, “Five Policy Issues Addressed by the WQAG, Notes for Presentation of Findings to IDEM Commissioner, March 13, 2002”. Much of the workgroup’s discussion focused on III.A., page 2, first paragraph. It was described as the implementation goal of the workgroup.
 - 1) It was pointed out that where the paragraph reads, “unless the State finds...that allowing lower” that the words “intergovernmental participation and public participation” had been dropped.
 - 2) There was disagreement whether “necessary to accommodate important economic or social development in the area in which the waters are located” could be two separate tests or must be a single test.
 - 3) In determining the “area” there was disagreement whether it should be determined at the local level or by IDEM. If a local decision, who has the most influence (e.g., the community, downstream, the county)?
- C. Discussion was concluded by the workgroup members agreeing that there were four overarching policy issues:
 - 1) Who decides what is “necessary”? How large of an “area” participates in that decision? It was suggested that technical necessity be handled by IDEM and the determination of what is important social/economic development be handled at the local level.
 - 2) What happens when a community is inadequately prepared to make a decision? It was suggested that the 1999 draft of 327 IAC 5-2-1.1 could serve as a guide to promote education through public participation.
 - 3) How do we develop a simple process that can be implemented by IDEM?
 - 4) What are the exceptions to the rule? Any exception would need to meet the EPA standard of “not significant lowering of water quality”.
- D. Based on the discussion, it was agreed that workgroup members should by the next meeting review, from the 1999 second notice:
 - 1) 327 IAC 5-2-1.1

- 2) 327 IAC 2-1-2 through 2-1-2.4 (and especially 2-1-2.4)
2. Public Participation (Task 7). The workgroup agreed that its members should try to participate in the public meetings on antidegradation. Following a sixty day comment period for first notice (which would close 4/29/03) two public meeting would be scheduled in the June-July, 2003 period. It was suggested that a simple, graphical presentation of eight to ten slides be prepared, one of which will outline the rulemaking process and let folks know where we are in the process. More discussion will be needed to work out the details of the two public meetings (e.g., locations, times, etc.).
 3. Timeline and Milestones (Task 8). A third subtask will be added to Task 7, i.e., the two public meetings to be held before draft language is published at second notice. It was suggested that “significant events” be flagged on the timeline.
 4. The next meeting will be Friday, January 24, 2003, from 10:00a.m. to 3:00p.m. To accommodate the beginning of the regular legislative session a conference room at the IDEM Shadeland offices will be sought.